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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,371	10/22/2003	Philippe Lucand	09199-US	4949
7590	09/02/2004		EXAMINER	
			MAMMEN, NATHAN SCOTT	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 09/02/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/691,371	LUCAND ET AL. 	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nathan S Mammen	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/22/03; 4/26/04</u> . | 6) <input type="checkbox"/> Other: _____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 6-9, 11, 12, 14, 17-22 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 1 029 441 patent publication, cited by Applicant.

The EP ‘441 patent publication discloses a crop recovery machine comprising a crop receptacle (i.e., compacting chamber), an inlet leading into a lower region of the receptacle, a crop take-up arrangement (17) located upstream of a first overshot rotor (21) that conveys crop into the inlet. The first rotor (21) has a circumference that reaches to the lower region of the receptacle.

Regarding claims 3, 4, 6-9, 11, 12, 14, 20, 21, 22: The first rotor (21) has a smaller width than the crop take-up arrangement (17) – see Figs. 3-5. A second rotor (18) is located upstream from the first rotor (21) and downstream from the crop take-up arrangement. The second rotor has a width greater than the first rotor (see ¶27 and Figs. 3-5). The crop take-up arrangement (17), second rotor (18) and first rotor (21) perform overshot conveying. The outer sections of the second rotor (18) are provided with a transverse conveying arrangement (16) that conveys axially inward. The second rotor has a central section with drivers (i.e. prongs) attached thereto. In the absence of any claim description otherwise, the prongs can be considered as fingers or tines. All sections of the second rotor are driven. The second rotor is mounted for movement

transverse to a flow of crop conveyed (see ¶21 – the subframe to which the second rotor is mounted can move in response to ground undulations). The machine is a large round baler (1), and the receptacle is a baling chamber. The first rotor reaches to a circumference of the lower region of the baling chamber.

Regarding claims 17-19: The crop recovery machine includes a guide arrangement (150, 151) arranged between the first and second rotors. The guide element inherently has some flexibility. The guide arrangement (150, 151) is configured as a flap.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 23, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1 029 441 patent publication in view of U.S. Patent Application Pub. No. 2002/0011061 to Lucand et al., both cited by Applicant.

The EP ‘441 patent publication discloses the claimed invention, as stated in paragraph 2 above, except for the first rotor being configured as a cutting rotor that cooperates with cutting knives. The Lucand ‘061 patent publication teaches that it is known in the art to provide a round baler with a rotor being configured as a cutting rotor (36) having axially spaced plates (38) cooperating with cutting knives (34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the crop recovery machine of the EP ‘441

patent with the cutting rotor and knives of the Lucand '061 patent publication, in order to reduce the size of the material entering the crop receptacle.

5. Claims 5, 10, 13, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1 029 441 patent publication in view of U.S. Patent No. 5,819,516 to Anderson et al.

The EP '441 patent publication discloses the claimed invention, as stated in paragraph 2 above, except for the second rotor having axially spaced helical conveyor sections. The Anderson '516 patent teaches that it is known in the art to provide a baler with axially spaced helical conveyor sections (42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the crop recovery machine of the EP '441 patent with the helical conveyor sections as taught by the Anderson '516 patent, in order to direct the crop material inwardly from a wide pick-up to a narrower crop receptacle.

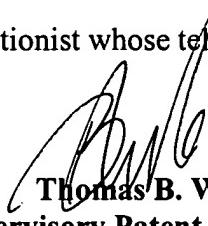
*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

**NSM**  
**8/21/04**

**Nathan S. Mammen**